

# Holland & Knight

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September 22, 2023

**VIA ECF**

The Honorable Paul A. Engelmayer  
United States District Judge, S.D.N.Y.  
Thurgood Marshall United States Courthouse  
40 Foley Square, Courtroom 1305  
New York, New York 10007

Re: *Capri Sun GmbH v. American Beverage Corporation*; 1:19-cv-01422 (PAE)  
– Request to Extend Deadline

Dear Judge Engelmayer:

We represent Defendant American Beverage Corporation and write jointly with Plaintiff Capri Sun GmbH (collectively, the “Parties”) to respectfully request that the Court extend the September 25, 2023 deadline for the Parties to file “each party’s proposed trial exhibit list with a joint letter outlining the parties’ respective positions as to those disputes about admissibility that merit resolution before trial” by two days to Wednesday, September 27, 2023. Dkt. No. 279.

On September 12, 2023, the Court entered an Order directing the Parties to file by September 25, 2023 their respective revised exhibit lists and the aforementioned joint letter, as well as “[e]ach party’s proposed verdict form. A letter from each party addressing whether, as damages, the 2023 royalty under the SLA is available in its entirety or only prorated through trial. A letter from each party addressing the proper means of instructing the jury as to those Polaroid factors that the Court has resolved in its summary judgment decision.” *See id.* Both Parties will file their proposed verdict forms and letter briefs concerning the available damages for 2023 (if any) and jury instructions on September 25, 2023.

As to the Parties’ revised exhibit lists and the related joint letter, the Parties have worked collaboratively and conferred numerous times since the Final Pretrial Conference held on September 11, 2023, in an attempt to cull their exhibit lists and resolve disputes concerning the Parties’ exhibits without Court intervention. The Parties respectfully request that the Court extend the deadline to file the revised exhibit lists and joint letter related thereto by two days (until September 27, 2023) to give the Parties additional time to continue to work together to present only the most salient issues for the Court’s consideration.

The Honorable Paul A. Engelmayer  
September 22, 2023~~September 21, 2023~~

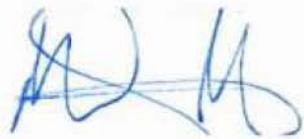
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This is the Parties' first request to extend this deadline and the request is not made for the purposes of delay. Rather, the Parties seek this modest extension to continue to resolve as many disputes as possible and identify only the most critical issues for the Court's resolution.

We thank the Court for its time and consideration.

Sincerely,

HOLLAND & KNIGHT LLP



Mark Goracke

MTG:jnm

Granted. SO ORDERED.

Dated: September 22, 2023  
New York, New York

Paul A. Engelmayer  
PAUL A. ENGELMAYER  
United States District Judge